



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP- 174560

PRELIMINARY RECITALS

On May 23, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § HA 3.03(4), to challenge a decision by the Racine County Department of Human Services regarding FoodShare benefits (FS). The hearing was held on June 23, 2016, by telephone.

The issue for determination is whether the Petitioner can re-enroll in the FSET/ResCare program.

NOTE: The record was held open until the end of the day to give the Petitioner an opportunity to supplement the record with what was supposed to be Exhibits 2-11.

The Petitioner submitted a fax that contained a letter dated March 2016 to "Racine Team", page 4 of a notice dated June 17, 2015, the first page of a summary dated November 16, 2015, a telephonic signature page dated March 7, 2016, a fax confirmation dated April 18th, a fax confirmation dated May 31st, a notice dated June 23, 2015 with a hand written note dated 4/2016, a fax cover sheet with the dates June 25th, July 1st and July 7, 2015, written on it, and a fax cover sheet dated July 9, 2015.

The documents in the fax packet do not match what was described as Exhibits 2-11. As such, those exhibits are considered withdrawn, and the packet submitted by Petitioner has been marked as Exhibit 24 and entered into the record.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin, 53703

By: [REDACTED] Lead Economic Support Specialist
Racine County Human Services Department
1717 Taylor Avenue
Racine, WI 53403

ADMINISTRATIVE LAW JUDGE:
Mayumi Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On June 17, 2015, the agency sent the Petitioner a notice, advising her that her FoodShare benefits would be ending July 1, 2015, because she used up her three months of time limited benefits. (Exhibit 19)
3. Sometime in March 2016, the Petitioner attempted to re-enroll in ResCare programming which is part of the FSET program. (Testimony of the Petitioner)
4. The Petitioner did not receive any satisfactory responses to her inquiries, so she filed an appeal that was received by the Division of Hearings and Appeals on May 23, 2016. (Exhibit 1)

DISCUSSION

The Petitioner filed an appeal, because she wants to re-enroll in the FSET/ResCare program. However, “an individual must first be determined eligible for FoodShare(FS) benefits as a condition of participation in the FSET program. If an individual is ineligible for FS, they are also ineligible to participate in FSET.” *FSET Handbook §2.1*

Because the Petitioner was deemed ineligible for FoodShare benefits, effective July 1, 2015, and because the Petitioner has not regained eligibility for FoodShare benefits, she is not eligible to participate in the FSET/ResCare program, at this time.

At the hearing, it was unclear whether the Petitioner wanted to dispute the discontinuance of her benefits, effective July 1, 2015, but even if she did, her appeal of that issue is untimely.

A fair hearing must be requested within 90 days of the loss of benefits. 7 CFR 273.15(g); *FoodShare Wisconsin Handbook (FSH) §6.4.1.1*

Petitioner’s benefits ended July 1, 2015, but Petitioner didn’t file her appeal until May 23, 2016, well past the 90-day deadline. Consequently, her appeal is untimely and there is no jurisdiction to review that issue.

CONCLUSIONS OF LAW

The Petitioner may no re-enroll in the FSET/ResCare program, because she is currently ineligible to receive FoodShare benefits.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

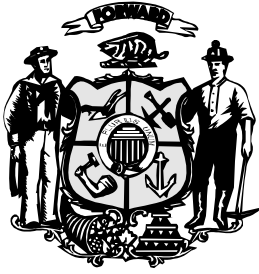
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of July, 2016

\s _____
Mayumi Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 12, 2016.

Racine County Department of Human Services
Division of Health Care Access and Accountability